

THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

CENTRAL DIVISION

FILED
U.S. DISTRICT COURT

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UNITED STATES OF AMERICA,

)

Case No.2:03CV0140 DS

DISTRICT OF UTAH

Plaintiff,

)

BY: _____
DEPUTY CLERK

vs.

)

ORDER

\$72,100 IN UNITED STATES
CURRENCY,

)

Defendant.

)

* * * * *

Pending before the Court is the United States' Motion to Strike the Claim of Ahmad Shayesteh for being Non-Responsive and for Entry of Default Judgment and Order of Forfeiture. In this regard, the Tenth Circuit instructs:

"Before imposing dismissal as a sanction, a district court should ordinarily evaluate the following factors on the record: '(1)the degree of actual prejudice to the [other party]; (2)the amount of interference with the judicial process; ... (3)the culpability of the litigant; (4)whether the court warned the party in advance that dismissal of the action would be a likely sanction for noncompliance; and (5)the efficacy of lesser sanctions.'" "This list," ... "is not exhaustive, nor are the factors necessarily" of equal weight. ... "Only when the aggravating factors outweigh the judicial system's strong predisposition to resolve cases on their merits is dismissal an appropriate sanction."

The Procter & Gamble Co. V. Haugen, 427 F.3d 727, 738 (10th Cir.

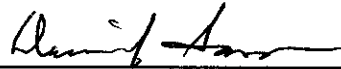
2005)(internal citations omitted).

In order to more fully apprise the Court of the position of the United States, within ten days of this Order Counsel for the United States is directed to evaluate Mr. Shayesteh's conduct in the context of the factors set forth above by the Tenth Circuit.

IT IS SO ORDERED.

DATED this 8th day of March, 2007.

BY THE COURT:

A handwritten signature in cursive script, appearing to read "David Sam", written over a horizontal line.

DAVID SAM
SENIOR JUDGE
UNITED STATES DISTRICT COURT